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Counsel for The T&D Nevada Trust

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re

DENNIS MITCHELL and
 ANTOINETTE MITCHELL,

Debtors.

Case No.: 17-12318-abl
 Chapter 7

NOTICE OF APPEAL

T&D Nevada Trust (“T&D”), appeals under 28 U.S.C. § 158(a) and Rule 8001 of the Federal Rules of Bankruptcy Procedure from the order of the bankruptcy judge, the Hon. August B. Landis, granting *Creditor Donne Recovery, LLC’s Motion to Enforce Settlement Agreement* [ECF No. 424], entered in this bankruptcy proceeding on June 24th, 2020. A copy of such order is attached hereto as “**Exhibit 1.**”

The names of all parties to the order appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

<u>PARTIES</u>	<u>REPRESENTED BY</u>
Debtors Dennis Mitchell and Antoinette Mitchell	Ryan J. Works, Esq. Amanda M. Perach, Esq. McDonald Carano LLP 2300 West Sahara Avenue, Suite 1200 Las Vegas, Nevada 89102 (702) 873-4100 rworks@mcdonaldcarano.com aperach@mcdonaldcarano.com
Creditor – Appellee	Joseph Chora, Esq.

Donne Recovery, LLC

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DATED this 2nd day of July, 2020.

HUTCHISON & STEFFEN, PLLC

/s/ **Jeffrey R. Hall**

Jeffrey R. Hall (9572)
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Counsel for The T&D Nevada Trust

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Hutchison & Steffen, LLC, and that on the 2nd day of July, 2020, I caused to be served a true and correct copy of the foregoing ***NOTICE OF APPEAL*** in the following manner: (ELECTRONIC SERVICE) Pursuant to FRCP 5-4, through the CM/ECF program, and the Court will make service of said document to the following CM/ECF registered user(s) through the CM/ECF program.

/s/ Bobbie Benitez

An employee of Hutchison & Steffen, PLLC

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EXHIBIT PAGE ONLY

EXHIBIT 1

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

Honorable August B. Landis
United States Bankruptcy Judge



Entered on Docket
June 24, 2020

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

* * * * *

In re:

DENNIS MITCHELL and ANTOINETTE
MITCHELL,

Debtors.

Case No.: 17-12318-abl

Chapter 7

Hearing Date: June 15, 2020

Hearing Time: 3:00 p.m.

ORDER GRANTING MOTION TO ENFORCE SETTLEMENT AGREEMENT

On June 15, 2020, the court issued its oral ruling on a Motion to Enforce Settlement Agreement (“Motion”) (ECF No. 424).¹ The Motion was filed on behalf of Donne Recovery, LLC (“Creditor”).

At the June 15, 2020 hearing, attorneys Steven B. Scow, Jay D. Adkisson, and Paul P. Young appeared telephonically on behalf of the Creditor. Attorney Jeff Hall appeared telephonically on behalf of the T&D Nevada Trust (the “Trust”). Other appearances were noted on the record.

To the extent that the Court made findings of fact and conclusions of law in the course of its oral ruling on June 15, 2020, those findings of fact and conclusions of law are incorporated

¹ In this Order, all references to “ECF No.” are to the numbers assigned to the documents filed in the above-captioned bankruptcy case as they appear on the docket maintained by the Clerk of the Court.

1 into this Order by this reference pursuant to FED. R. CIV. P. 52, made applicable in this contested
2 matter pursuant to FED. R. BANKR. P. 9014(a) and (c) and 7052.

3 For the reasons stated on the record:

4 **IT IS ORDERED** that the Motion is **GRANTED**.

5 **IT IS FURTHER ORDERED** that Dennis E. Mitchell and Antoinette Mitchell
6 (“Debtors”) and the Trust shall take any and all actions necessary to provide counsel for Creditor
7 with original, signed, recordable, enforceable deeds of trust encumbering the Sulpher Mountain
8 Property and the White Lane Property, in a form satisfactory to Creditor’s counsel, **within ten**
9 **(10) calendar days after this Order is entered on the Court’s docket.**

10 **IT IS FURTHER ORDERED** that, in the absence of timely compliance with the
11 provisions of the preceding paragraph of this Order by Debtors and/or the Trust, upon Creditor’s
12 filing of an *ex parte* application confirming such non-compliance, the Court will appoint an
13 elisor as a remedy for the ongoing failure and refusal by the Debtors and the Trust to comply
14 with the terms of the Settlement Agreement.

15 **IT IS FURTHER ORDERED** that the remittitur issued by the California Court of
16 Appeals on February 13, 2020,² is a remittitur sufficient to satisfy the provisions of Paragraph
17 2(h) of the Settlement Agreement that is the subject of the Motion.

18 **IT IS FURTHER ORDERED** that as the result of a material, incurable, and continuing
19 breach of the Settlement Agreement by Debtors and the Trust, Creditor is discharged from any
20 legal duty under the Settlement Agreement to continue to forbear from enforcement of the
21 judgment held by Creditor that is referenced in the Settlement Agreement.

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23 Copies sent to all parties via CM/ECF Electronic Filing.

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² For clarity and avoidance of any doubt, a copy of the remittitur referenced in this Order
can be found on this Court’s docket at ECF 426, p. 124 of 129.

Electronically Filed July 6, 2020

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JOINDER TO NOTICE OF APPEAL

Joining Debtors Dennis Mitchell and Antoinette Mitchell ("Debtors"), by and through their undersigned counsel, hereby files this Joinder to T&D Nevada Trust's ("T&D") *Notice of Appeal* (the "Appeal").

DATED this 6th day of July, 2020.

McDONALD CARANO LLP

By: /s/ Ryan J. Works

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**STATEMENT OF ELECTION TO HAVE
APPEAL HEARD BY DISTRICT COURT
PURSUANT TO RULE 8005 OF THE
FEDERAL RULES OF BANKRUPTCY
PROCEDURE**

Appellant The T&D Nevada Trust ("T&D") hereby elects, pursuant to 28 U.S.C. §§ 158(a) and (c)(1) and Rule 8005 of the Federal Rules of Bankruptcy Procedure, to have its appeal from this Court's *Order Granting Motion To Enforce Settlement Agreement*, entered on June 24th, 2020 (the "Order") [Bankr. Dkt. 449], heard by the United States District Court for the District of Nevada rather than by the U.S. Bankruptcy Appellate Panel for the Ninth Circuit.

DATED this 6th day of July, 2020.

HUTCHISON & STEFFEN, PLLC

/s/ Jeffrey R. Hall

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I hereby certify that I am an employee of Hutchison & Steffen, LLC, and that on the 6th day of July, 2020, I caused to be served a true and correct copy of the foregoing **STATEMENT OF ELECTION** in the following manner: (ELECTRONIC SERVICE) Pursuant to FRCP 5-4, through the CM/ECF program, and the Court will make service of said document to the following CM/ECF registered user(s) through the CM/ECF program.

/s/ BOBBIE BENITEZ

An employee of Hutchison & Steffen, PLLC